



General Assembly

February Session, 2020

**Raised Bill No. 5228**

LCO No. 1649



Referred to Committee on ENERGY AND TECHNOLOGY

Introduced by:  
(ET)

**AN ACT CONCERNING THE COMMERCIAL PROPERTY ASSESSED  
CLEAN ENERGY PROGRAM.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16a-40g of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2020*):

3 (a) As used in this section:

4 (1) "Energy improvements" means (A) participation in a district  
5 heating and cooling system by qualifying commercial real property, (B)  
6 participation in a microgrid, as defined in section 16-243y, including any  
7 related infrastructure for such microgrid, by qualifying commercial real  
8 property, provided such microgrid and any related infrastructure  
9 incorporate clean energy, as defined in section 16-245n, (C) any  
10 improvement, renovation or retrofitting of qualifying commercial real  
11 property to reduce energy consumption or improve energy efficiency,  
12 (D) installation of a renewable energy system to service qualifying  
13 commercial real property, [or] (E) installation of a solar thermal or  
14 geothermal system to service qualifying commercial real property,  
15 provided such renovation, retrofit or installation described in

16 subparagraph (C), (D) or (E) of this subdivision is permanently fixed to  
17 such qualifying commercial real property, (F) installation of refueling  
18 infrastructure for zero-emission vehicles to a qualifying commercial real  
19 property, or (G) installation of resiliency measures to a qualifying  
20 commercial real property;

21 (2) "District heating and cooling system" means a local system  
22 consisting of a pipeline or network providing hot water, chilled water  
23 or steam from one or more sources to multiple buildings;

24 (3) "Qualifying commercial real property" means any commercial or  
25 industrial property, regardless of ownership, that meets the  
26 qualifications established for the commercial sustainable energy  
27 program;

28 (4) "Commercial or industrial property" means any real property  
29 other than a residential dwelling containing less than five dwelling  
30 units;

31 (5) "Benefited property owner" means an owner of qualifying  
32 commercial real property who desires to install energy improvements  
33 and provides free and willing consent to the benefit assessment against  
34 the qualifying commercial real property;

35 (6) "Commercial sustainable energy program" means a program that  
36 facilitates energy improvements and utilizes the benefit assessments  
37 authorized by this section as security for the financing of the energy  
38 improvements;

39 (7) "Municipality" means a municipality, as defined in section 7-369;

40 (8) "Benefit assessment" means the assessment authorized by this  
41 section;

42 (9) "Participating municipality" means a municipality that has  
43 entered into a written agreement, as approved by its legislative body,  
44 with the bank pursuant to which the municipality has agreed to [assess,  
45 collect, remit] levy benefit assessments, file benefit assessment liens and

46 assign [,] such benefit [assessments] assessment liens to the bank or  
47 third-party capital provider, as applicable, in return for energy  
48 improvements for benefited property owners within such municipality  
49 and costs reasonably incurred in performing such duties;

50 (10) "Bank" means the Connecticut Green Bank; [and]

51 (11) "Third-party capital provider" means an entity, other than the  
52 bank, that provides financing, energy services agreements, leases or  
53 power purchase agreements directly to benefited property owners for  
54 energy improvements;

55 (12) "Zero-emission vehicle" has the same meaning as provided in  
56 section 4a-67d; and

57 (13) "Resiliency" means the capacity to withstand natural,  
58 technological and human-caused hazards.

59 (b) (1) The bank shall establish a commercial sustainable energy  
60 program in the state, and in furtherance thereof, is authorized to make  
61 appropriations for and issue bonds, notes or other obligations for the  
62 purpose of financing, (A) energy improvements; (B) related energy  
63 audits; (C) renewable energy system feasibility studies; and (D)  
64 verification reports of the installation and effectiveness of such  
65 improvements. The bonds, notes or other obligations shall be issued in  
66 accordance with legislation authorizing the bank to issue bonds, notes  
67 or other obligations generally. Such bonds, notes or other obligations  
68 may be secured as to both principal and interest by a pledge of revenues  
69 to be derived from the commercial sustainable energy program,  
70 including revenues from benefit assessments on qualifying commercial  
71 real property, as authorized in this section.

72 (2) When the bank has made appropriations for energy  
73 improvements for qualifying commercial real property or other costs of  
74 the commercial sustainable energy program, including interest costs  
75 and other costs related to the issuance of bonds, notes or other  
76 obligations to finance the appropriation, the bank may require the

77 participating municipality in which the qualifying commercial real  
78 property is located to levy a benefit assessment against the qualifying  
79 commercial real property especially benefited thereby.

80 (3) The bank (A) shall develop program guidelines governing the  
81 terms and conditions under which state and third-party financing may  
82 be made available to the commercial sustainable energy program,  
83 including, in consultation with representatives from the banking  
84 industry, municipalities and property owners, developing the  
85 parameters for consent by existing mortgage holders and may serve as  
86 an aggregating entity for the purpose of securing state or private third-  
87 party financing for energy improvements pursuant to this section, (B)  
88 shall establish the position of commercial sustainable energy program  
89 liaison within the bank, (C) may establish a loan loss reserve or other  
90 credit enhancement program for qualifying commercial real property,  
91 (D) may use the services of one or more private, public or quasi-public  
92 third-party administrators to administer, provide support or obtain  
93 financing for the commercial sustainable energy program, (E) shall  
94 adopt standards to [ensure that] determine whether the combined  
95 projected energy cost savings and other associated savings of the energy  
96 improvements over the useful life of such improvements exceed the  
97 costs of such improvements, except that this section shall not apply to  
98 the installation of refueling infrastructure for zero-emission vehicles or  
99 resiliency measures adopted under this section, and (F) may encourage  
100 third-party capital providers to provide financing, energy services  
101 agreements, leases and power purchase agreements directly to  
102 benefited property owners in lieu of or in addition to the bank providing  
103 such [loans] financing, energy services agreements, leases and power  
104 purchase agreements.

105 (c) Before establishing a commercial sustainable energy program  
106 under this section, the bank shall provide notice to the electric  
107 distribution company, as defined in section 16-1, that services the  
108 participating municipality.

109 (d) If a benefited property owner requests financing from the bank or

110 a third-party capital provider for energy improvements under this  
111 section, the bank shall:

112 (1) Require performance of an energy audit or renewable energy  
113 system feasibility analysis on the qualifying commercial real property  
114 that assesses the expected energy cost savings of the energy  
115 improvements over the useful life of such improvements before  
116 approving such financing, except that the requirements of this  
117 subdivision shall not apply to the installation of refueling infrastructure  
118 for zero-emission vehicles or resiliency measures adopted under this  
119 section;

120 (2) If financing is approved, either by the bank or the third-party  
121 capital provider, require the participating municipality to levy a benefit  
122 assessment on the qualifying commercial real property with the  
123 property owner in a principal amount sufficient to pay the costs of the  
124 energy improvements and any associated costs the bank or the third-  
125 party capital provider determines will benefit the qualifying  
126 commercial real property;

127 (3) Impose requirements and criteria to ensure that the proposed  
128 energy improvements are consistent with the purpose of the commercial  
129 sustainable energy program;

130 (4) Impose requirements and conditions on the financing to ensure  
131 timely repayment, including, but not limited to, procedures for placing  
132 a benefit assessment lien on a property as security for the repayment of  
133 the benefit assessment; and

134 (5) Require that the property owner provide written notice, not less  
135 than thirty days prior to the recording of any benefit assessment lien  
136 securing a benefit assessment for energy improvements for such  
137 property, to any existing mortgage holder of such property, of the  
138 property owner's intent to finance such energy improvements pursuant  
139 to this section.

140 (e) (1) The bank or the third-party capital provider may enter into a

141 financing agreement with the property owner of qualifying commercial  
142 real property. After such agreement is entered into, and upon notice  
143 from the bank, the participating municipality shall (A) place a caveat on  
144 the land records indicating that a benefit assessment and a benefit  
145 assessment lien are anticipated upon completion of energy  
146 improvements for such property, or (B) at the direction of the bank, levy  
147 the benefit assessment and file a benefit assessment lien on the land  
148 records based on the estimated costs of the energy improvements prior  
149 to the completion or upon the completion of such improvements.

150 (2) The bank or the third-party capital provider shall disclose to the  
151 property owner the costs and risks associated with participating in the  
152 commercial sustainable energy program established by this section,  
153 including risks related to the failure of the property owner to pay the  
154 benefit assessment. The bank or the third-party capital provider shall  
155 disclose to the property owner the effective interest rate of the benefit  
156 assessment, including fees charged by the bank or the third-party capital  
157 provider to administer the program, and the risks associated with  
158 variable interest rate financing. The bank or the third-party capital  
159 provider shall notify the property owner that such owner may rescind  
160 any financing agreement entered into pursuant to this section not later  
161 than three business days after such agreement.

162 (f) The bank or the third-party capital provider shall set a fixed or  
163 variable rate of interest for the repayment of the benefit assessment  
164 amount at the time the benefit assessment is made. Such interest rate, as  
165 may be supplemented with state or federal funding as may become  
166 available, shall be sufficient to pay the bank's financing and  
167 administrative costs of the commercial sustainable energy program,  
168 including delinquencies.

169 (g) Benefit assessments levied and filed pursuant to this section and  
170 the interest, fees and any penalties thereon shall constitute a lien against  
171 the qualifying commercial real property on which they are made until  
172 they are paid. Such benefit assessment lien, shall be paid in installments  
173 and each installment payment shall be [collected] due and payable in

174 the same manner as the property taxes of the participating municipality  
175 on real property, including, in the event of default or delinquency, with  
176 respect to any penalties, fees and remedies. Such benefit assessment  
177 liens shall be collected and remitted by either the participating  
178 municipality, the bank or one of the bank's third-party administrators,  
179 as may be agreed to in writing between the bank and the municipality.  
180 Each such benefit assessment lien may be recorded and released in the  
181 manner provided for property tax liens and shall take precedence over  
182 all other liens or encumbrances except a lien for taxes of the municipality  
183 on real property, which lien for taxes shall have priority over such  
184 benefit assessment lien, and provided that the precedence of such  
185 benefit assessment lien over any lien held by an existing mortgage  
186 holder shall be subject to the written consent of such existing mortgage  
187 holder. To the extent any benefit assessment lien installment is not paid  
188 when due, the benefit assessment lien may be foreclosed to the extent of  
189 any unpaid installment payments due and owing and any penalties,  
190 interest and fees related thereto. In the event a benefit assessment lien is  
191 foreclosed or a lien for taxes of the municipality on real property is  
192 foreclosed or enforced by levy and sale in accordance with chapter 204,  
193 the benefit assessment lien shall be extinguished solely with regard to  
194 any installments that were due and owing on the date of the judgment  
195 of such foreclosure or levy and sale and the benefit assessment lien shall  
196 otherwise survive such judgment or levy and sale to the extent of any  
197 unpaid installment payments of the benefit assessment secured by such  
198 benefit assessment lien that are due after the date of such judgment or  
199 levy and sale.

200 (h) Any participating municipality may assign to the bank or third-  
201 party capital provider, as applicable, any and all benefit assessment  
202 liens filed by the participating municipality, as provided in the written  
203 agreement between the participating municipality and the bank. The  
204 bank or third-party capital provider may sell or assign, for  
205 consideration, any and all benefit assessment liens received from the  
206 participating municipality. The consideration received by the bank or  
207 third-party capital provider shall be negotiated between the bank or the

208 third-party capital provider, as applicable, and the assignee. The  
209 assignee or assignees of such benefit assessment liens shall have and  
210 possess the same powers and rights at law or in equity as the bank,  
211 third-party capital provider and the participating municipality and its  
212 tax collector would have had if the benefit assessment lien had not been  
213 assigned with regard to the precedence and priority of such benefit  
214 assessment lien, the accrual of interest and the fees and expenses of  
215 collection. The assignee shall have the same rights to enforce such  
216 benefit assessment liens as any private party holding a lien on real  
217 property, including, but not limited to, foreclosure and a suit on the  
218 debt. Costs and reasonable attorneys' fees incurred by the assignee as a  
219 result of any foreclosure action or other legal proceeding brought  
220 pursuant to this section and directly related to the proceeding shall be  
221 taxed in any such proceeding against each person having title to any  
222 property subject to the proceedings. Such costs and fees may be  
223 collected by the assignee at any time after demand for payment has been  
224 made by the assignee.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2020	16a-40g
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**Statement of Purpose:**

To expand the definition of energy improvements to include zero-emission vehicle refueling infrastructure and resiliency measures and to exempt these expansions from the savings-to-investments ratio and to permit direct assignment of liens to third-party capital providers.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*